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ABSTRACT

The report of the Study Commission on Structure and Governance of Education (commonly known as the Rosenberg Commission), which provoked considerable controversy because of its recommended broad changes, was evaluated by a task force through public and invitational hearings and extensive meetings. The recommendations for elementary and secondary education focus on these areas: the state board of education's structure, the state superintendent of schools' role and office, the Baltimore City school system's structure and administration, jurisdiction over collegiate programs, school construction, programs of health-related and correctional facilities, parent advisory councils, regional services, collective bargaining, cooperative arrangements with industry and government, equalizing educational opportunity, and intergovernmental relations. Recommendations for higher education include broad, statewide changes in system and institutional structures and roles, the size and composition of the State Board for Higher Education, university status for Morgan State University, no changes in the University of Maryland system, retention of a single governing board for the state colleges with some changes, incorporation of community colleges into the larger state system, a regional university system for the Eastern Shore, and consolidation of several abolished state agencies into a Department of Higher Education. Some measures for coordination of elementary, secondary, and higher education are also made. (MSE)

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TASK FORCE TO
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ON STRUCTURE AND GOVERNANCE
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**TASK FORCE TO EVALUATE THE FINAL REPORT
OF THE
GOVERNOR'S STUDY COMMISSION ON STRUCTURE
AND GOVERNANCE OF EDUCATION**

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December, 1975



MARVIN MANDEL
GOVERNOR

STATE OF MARYLAND
EXECUTIVE DEPARTMENT
ANNAPOLIS, MARYLAND 21404

Honorable Marvin Mandel
Governor of Maryland
State House
Annapolis, Maryland 21404

Dear Governor Mandel:

I am pleased to submit to you herewith a Report of the activities and recommendations of the Task Force created by you to evaluate the Final Report of the Study Commission on Structure and Governance of Education.

In our Report, we have attempted to explain in detail the changes we have recommended, with respect to both the current law and the recommendations of the Study Commission, as well as the reasons for these recommended changes.

Considering our work and that of the Study Commission as a continuum, I believe that our final product represents the most comprehensive evaluation of the structure and governance of education in Maryland ever undertaken, with the maximum input from not only the affected institutions and agencies, but, more importantly, the public.

We have no illusions that our recommendations will be entirely free from controversy; the Task Force itself was not unanimously agreed on some of them. We did attempt to reconcile and harmonize the varying viewpoints presented to us, consistent with what we thought to be right; and we do believe that these recommendations, if implemented, will produce a much more efficient and responsive system of public education in Maryland.

Sincerely,

A handwritten signature in cursive script that reads "Alan M. Wilner".

Alan M. Wilner
Chairman

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**REPORT AND RECOMMENDATIONS
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I. INTRODUCTION

In January, 1973, the Governor appointed a Commission on the Structure and Governance of Education, and charged it with undertaking a study of the structure and governance of education in Maryland from early childhood through graduate school. This Commission, chaired by Leonard H. Rosenberg (and thus being commonly referred to as the "Rosenberg Commission"), worked at its task for over two years, and amassed an enormous amount of information and opinion concerning all aspects of public education, in Maryland and elsewhere.

The Report of the Study Commission was delivered to the Governor in May, 1975, and was widely distributed throughout the State. Some 10,000 copies of it were printed and sent to PTA groups, libraries, educational agencies and institutions, the news media, and, upon request, to the public at large.

Some of the Study Commission's recommendations, particularly (but not exclusively) in the area of higher or postsecondary education, involved far reaching changes in the present structure, and thus provoked considerable comment and controversy. This Task Force was created in order to evaluate the recommendations of the Study Commission, both in the light of our own assessment of them and particularly in the light of the public response to them. The Task Force has proceeded upon the assumption that its function included considering alternatives to the recommendations of the Study Commission; and it has done so.

Of the eleven members on the Task Force, seven had also been members of the Study Commission, and much, if not all, of the pertinent background leading to that Commission's recommendations was imparted to the Task Force. In addition, the relevant written material presented to the Study Commission has been available to the Task Force.

The Task Force held five public hearings throughout the State—at College Park, Baltimore, Easton, Hagerstown, and Waldorf. Each of these hearings was well publicized in advance, and each was gen-

erally well attended. In addition, the Task Force held three "invitational" hearings, at which representatives from the various educational institutions and agencies of the State and local governments presented their reactions to the Study Commission's recommendations as well as their own alternative proposals. Finally, the Task Force received many letters and written position papers from a variety of individuals, groups, and agencies.

In order to assemble and evaluate the issues and assess the responses received, the Task Force held six day-long meetings. Every significant issue was discussed and debated freely and without limitation. What follows is the consensus of the Task Force.

**II. RECOMMENDATIONS—ELEMENTARY AND
SECONDARY EDUCATION**

A. STATE BOARD OF EDUCATION

The current law (Article 77, §§2 and 3) creates a State Board of Education of seven members appointed by the Governor for five year terms. It is and generally has been a "lay" board. The State Board is given very broad authority to establish the educational policies of the State through the adoption of bylaws, rules, and regulations. (See Article 77, §§6 and 7.) The Court of Appeals, in fact, has construed the current law as conferring a comprehensive visitorial power on the State Board which is summary and exclusive. *Wiley v. Board of County School Commrs.*, 51 Md. 401 (1879).

The Study Commission recommended renaming this Board the State Board for Elementary and Secondary Education, and expanding its membership to fifteen, appointed for staggered six year terms. One member was to be appointed from each of the State's eight Congressional districts, with the other seven members appointed at large. It further recommended that the new board have the same basic powers and functions exercised by the existing Board, plus a few others that will be discussed below. See Study Commission Report, pp. 20, 24.

With respect to these matters, the Task Force recommends:

(1) The State Board of Education should be renamed the State Board of Elementary and Secondary Education. This will be more consistent with the Board's actual functions, both current and recommended, which concern principally that segment of the educational system. With the exception of certain approval power over collegiate institutions provided for in sections 11 and 12, of Article 77, of which the Board has desired to divest itself and which we recommend later in this Report to be placed in a new State Board for Higher Education, the current jurisdiction of the Board is generally limited to elementary and secondary education. Renaming the Board in the manner recommended will, therefore, more accurately delineate the differing roles of this Board and the Board for Higher Education. To be consistent with this recommendation, we also recommend that the Department of Education be renamed the Department of Elementary and Secondary Education.

(2) The Board should be expanded to eleven, rather than fifteen, members; and although geography and other factors should be considered in making the appointments to the Board, a specific geographic representation, such as Congressional districts, should not be placed in the law.

The Study Commission gave no specific reasons in its Report for selecting the number of fifteen. The apparent rationale for its recommendation was that (1) an increase to that number would allow for the better use of subcommittees; (2) the membership of the proposed Board for Higher Education was also fifteen; (3) because of the increased responsibility of the Board over the years, an increase in membership was desirable; and (4) such an increase, especially if spread geographically, would bring the Board closer to the people and therefore make it more responsive to their desires.

The President of the State Board of Education, on behalf of the Board, indicated that, while some increase from the current membership of seven may be desirable, fifteen would be unwieldy. The Board meets at least monthly, and difficulties may be encountered in securing full or nearly full attendance. Although the Board presently has two or three subcommittees, the President stated that further expansion of the subcommittee system may be undesirable in that it would lessen the involvement of the entire Board in many important matters coming before the Board. An expansion to nine or eleven members was not opposed by the Board.

A mandated representation by Congressional district was rejected by the Task Force for the following reasons:

(i) Congressional districts can change with

periodic redistricting, which could either result in dropping a member during his term or departing from the district concept;

(ii) Even with additional "at large" members, district representation will not guarantee the results desired by the Study Commission. For example, the entire Eastern Shore, Southern Maryland, and Harford County comprise but one district. Baltimore City is part of three Congressional districts, but has only one district entirely within its borders. A person may be selected from a part of a district that is not necessarily representative of the entire district;

(iii) Factors other than mere geography are also important. Although all parts of the State should be represented on the Board, attention should also be given to areas with differing concentrations of population and school systems having unique needs.

After considering these factors, the Task Force recommends that the Board consist of eleven members, to be appointed by the Governor with the advice and consent of the Senate. In making his appointments, the Governor should give due consideration to appropriate representation from all parts of the State geographically and areas with differing concentrations of population and unique needs; but no statutory formula for apportioning the members should be provided.

At present Senate confirmation is not required for these appointments. The Task Force feels, however, that it may assist in ensuring that the guidelines indicated above are considered.

(3) The Board should remain a "lay" board in that the present restriction against anyone subject to the Board's authority being appointed to it should be maintained.

(4) At the present time, the Board members serve for five year terms. The Study Commission recommended that the term be six years, but gave no reason for the extension. We believe that the term should remain at five years. The incumbent seven members should continue to serve until the end of their term, subject to such eligibility for reappointment as they presently have; and the initial terms of the four new members can be staggered so as to provide a fairly evenly staggered Board.

(5) No change in the current provisions concerning the removal of Board members and the filling of vacancies was recommended by the Study Commission, and none is proposed by the Task Force. One change we do recommend, however, that was not addressed by the Study Commission, is to require six affirmative votes for action by the Board. As noted, the Board has extensive, and, in some instances, unreviewable, authority to determine education policy; and the Task Force believes that, in making its decisions, the Board should act only upon the vote of a majority of its entire membership.

B. STATE SUPERINTENDENT OF SCHOOLS

The Study Commission recommended changing the name of the State Superintendent of Schools to the Commissioner of Elementary and Secondary Education, although it gave no reasons for the change. The Study Commission did not recommend any substantial change in the duties of this official with respect to elementary and secondary education, but it did recommend divesting him of jurisdiction over postsecondary institutions and programs.

The Task Force concurs in the name change recommendation for the following reasons:

1. The new title would be more consistent with the official's duties and responsibilities, which concern elementary and secondary education;

2. It would serve to distinguish him from the county superintendents, and thus help to avoid some confusion on the part of the public as to what and who is a superintendent; and

3. The term "Commissioner" is used in other States.

We also recommend that the Commissioner be a member of the Governor's cabinet. This will give elementary and secondary education a spokesman at the highest executive level.

C. BALTIMORE CITY

The Study Commission recommended that, with three exceptions, the Baltimore City school system adhere to the provisions of Article 77 and have the basic status of a county school system. The three exceptions were:

(1) The Mayor would continue to appoint the Board of School Commissioners with the advice and consent of the City Council;

(2) The City school system would continue to follow the present City charter and State statutory provisions with respect to matters of fiscal management and taxing powers; and

(3) The existing provisions for collective bargaining for noncertificated employees in Baltimore City would remain in effect.

Baltimore City is somewhat unique with respect to the relationship between its local government and its local school system. In the counties, the school board is a semi-autonomous body, being a body politic unto itself, and having the power to purchase, condemn, hold, and dispose of property, hire and fire all school personnel, and employ its own counsel. In Baltimore City, the school board is merely an agency of the City Government, and has none of these powers unto itself. The City acquires, holds, and disposes of school property; noncertificated personnel are hired and fired through the City merit system and are subject to City-wide collective bargaining; and the City Solicitor is the board's counsel.

It does not appear that the Study Commission

intended to disturb the present relationship between the City government and its school system. Rather, it was concerned with the relationship between the State and City educational policies. Unfortunately, the recommendation, as worded on page 30 of its Report, even with the three exceptions, left open the spectre of the local interrelationship being upset, which prompted the City's concern.

Both the City and the Task Force have made a more exhaustive review of the relevant provisions of Article 77 and the City Charter. As a result of a day-long conference with representatives of the Mayor, the Board of School Commissioners, the City Superintendent, and the City Solicitor, an understanding has been reached. With the concurrence of the City, we recommend that the City continue to be excepted from those provisions of Article 77 that deal with the powers of the local school board vis a vis the local government and local superintendent, but that in all other respects, the City be treated the same as a county within Article 77.

D. JURISDICTION OVER COLLEGIATE PROGRAMS

Sections 11 and 12 of Article 77 give the State Board of Education and the State Superintendent of Schools somewhat overlapping jurisdiction over the setting of standards for, and the approval of institutions offering, certificates, diplomas, and degrees—collegiate as well as elementary and secondary.

For several years, the State Board and Superintendent have desired to divest themselves of this authority over postsecondary programs and institutions, and for even more years these two sections have been in need of general revision. The Study Commission recommended that this jurisdiction be vested in a new State Board for Higher Education, with which we concur. This is discussed in more detail later in this report. As a corollary to effecting such a change, we recommend that the conflicting and overlapping jurisdiction of the Board (of Elementary and Secondary Education) and the State Superintendent of Schools (Commissioner of Elementary and Secondary Education) as to the elementary and secondary programs and institutions be clarified. We suggest that the authority be in the Board, which sets other educational policy, rather than in the Commissioner. This change will be more consistent with the general duties of the two entities.

E. SCHOOL CONSTRUCTION PROGRAM

The Study Commission recommended that the State Board of Elementary and Secondary Education "administer" the public school construction program authorized under section 130A of Article 77, and establish "the necessary relationships" with the Departments of State Planning and General Services.

Section 130A authorizes the State funding of school construction, but leaves the administration of the program to the Board of Public Works. By rule, that Board created the Interagency Committee on School Construction, consisting of the State Superintendent of Schools and the Secretaries of State Planning and General Services, which Committee oversees the operation of the program. The Board of Public Works appoints an Executive Director to the Committee, but the staff assistance comes from the three departments represented on the Committee. The Committee itself is not part of any department, but operates under the Board of Public Works. The staff of the Committee, lent to it by the constituent departments, works with the local school systems in developing their State funded projects.

The Study Commission did not explain what it meant by the Board of Elementary and Secondary Education "administering" the program.

The Task Force believes that the Interagency Committee should be a statutory creature, since the program itself was authorized by statute. Furthermore, instead of serving as an independent unit under the Board of Public Works, which, in light of its many other responsibilities, may not have adequate time to devote to it, the Committee should be placed within the Department of Elementary and Secondary Education for administrative and budgetary purposes. It is intended that the present practice of having the staff to the Committee be on loan from the three departments be continued and that they be paid by those departments. It is also intended that the Committee continue to make its recommendations directly to the Board of Public Works. The basic change here is that, for purposes of day to day purchases, requisitions, personnel matters, operational funding, and other similar routine administrative matters, the Executive Director be supervised in accordance with normal State law and procedures.

As part of this change, the Task Force also recommends that the Executive Director be appointed by the Committee itself, rather than by the Board of Public Works, but with approval of that Board.

F. INSTITUTIONAL PROGRAMS

The Study Commission found that the existing delivery system of educational services to youth in the health related and correctional institutions was unsatisfactory. The basic components of a responsive system found to be lacking were, as stated on page 25 of its Report: "a spokesman for institutional education; an overall commitment to guarantee services; instructional supervision; funding strategies; and an effective link between the State Department of Education and other relevant agencies."

To provide a remedy to the situation and achieve these objectives, the Study Commission recommended the creation of a Statewide Board for Institutional Education, "with equal status and a similar policy making and administrative structure to the other 24 local systems in the State." The Board would be composed of representatives of public and private mental health, criminology, special education, parents, and other citizens.

The Task Force concurs with the Study Commission's assessment of the shortcomings of the current system. We believe, however, that the particular remedy recommended by the Study Commission could well lead to more problems than it would solve, and that there is a better way to achieve the needed reform. The problems that we perceive with a State Board for Institutional Education, in the context recommended by the Study Commission, are as follows:

1. The needs of children throughout the spectrum of institutional programs—from mental health and retardation through juvenile and adult correctional institutions—are quite different; and one board may not be able to understand and adequately serve all of these differing needs.

2. A separate and independent board having control over these programs can create serious problems of coordinating the educational programs with the overall institutional program, and with the public educational programs to which many of the patients and inmates will return. For example, if this Board hires and controls the teachers and other personnel involved in the educational program, there will be one group of personnel within the institution reporting to one person and the rest reporting to someone else. The potential for lack of coordination, jurisdictional disputes, and disparity in personnel administration, status, and procedures becomes very real. Would the educational personnel be entitled to the same or similar tenure and collective bargaining possessed by employees of local school boards; and, if so, how would this affect the other employees at the institutions who do not have these rights?

County education boards do not employ persons to work at a particular school. If this is carried over, the proposed statewide Board would be able to transfer personnel from the correctional institutions at Hagerstown to the facilities at Rosewood in Baltimore or Cheltenham in Southern Maryland. Problems of salary schedules would also arise. Would a person in the same classification be paid the same salary in Western Maryland as in Baltimore City; if so, the parity between teachers in the State and local systems, now legislatively mandated, would be upset.

3. What would be the extent of the Board's jurisdiction? Would it include, for example, vocational programs? Many of these are funded through federal

grants, and changes in the conditions of those grants may be required. Some of these programs are operated quite successfully on a contractual basis. In establishing and operating the programs, what built-in mechanism would there be to assure that the programs are coordinated with the local educational system? Children do not remain at the training schools for much longer than 60 to 90 days, on the average, for example. Their education while at the training school is but part of a continuum with the public school program; yet, without some coordinative mechanism, the two programs, being independently developed and operated, may become disjointed.

As noted above, the Task Force believes that the criticisms of the present system found by the Study Commission are valid. The question is how to resolve them without raising other equally serious problems. Key ingredients in creating a viable and rational system that will achieve the goals listed by the Study Commission are assuring that (1) the educational programs are developed and monitored by a competent and broadly representative policy-making group, (2) there is clear responsibility within the departments responsible for operating the institutions to carry out the educational programs in the institutions as developed by the policy-making group, (3) flexibility in funding these programs exists where such flexibility is advantageous, but that funds appropriated for institutional education programs are not diverted to other purposes, and (4) in development and implementation, these programs are carefully coordinated with both the overall institutional program and with existing and planned public education programs.

To achieve the overall goals addressed by the Study Commission consistent with the objectives stated above, the Task Force recommends that:

1. Two Educational Coordinating Councils be created which, for administrative and budgetary purposes, would be within the State Department of Elementary and Secondary Education. One Council would be for educational programs within the correctional institutions; the other for programs within the hospital centers and juvenile institutions.

The Councils would each consist of the Commissioner of Elementary and Secondary Education, the Superintendent of Public Instruction of Baltimore City, two county superintendents, and five persons appointed by the Governor from the public at large. The Council for correctional programs would also include the Commissioner of Correction and the Executive Director of the State Board for Community Colleges; and the Council for hospital and juvenile programs would include the Secretary of Health and Mental Hygiene, the Director of the Juvenile Services Administration, the Commissioner of Mental Hygiene, and the Director of the Mental Retardation

Administration. Depending upon any reorganization within the Department of Health and Mental Hygiene, the representation from that Department may be adjusted.

This makeup of each council assures substantial input from the public at large, public education, and the agencies responsible for the overall operation of the institutions. Appropriate coordination of programs should, therefore, be little problem.

2. The function of each council should be to plan and develop an educational program within the respective institutions, and to monitor its operation. These programs must take account of the special needs and circumstances of the patients, inmates, and personnel within the institutions.

3. Basic funding for the educational programs should be through the State Department of Elementary and Secondary Education, with the ability of other agencies to contribute as provided in the State budget. This will allow, for example, the community colleges to offer some programs as well as for funding through the departments of Health and Mental Hygiene and Public Safety and Correctional Services.

4. The Department of Health and Mental Hygiene and the Division of Correction (within the Department of Public Safety and Correctional Services) should each appoint a Director of Educational Programs who would be responsible for the implementation and operation of the institutional education programs as developed by the Council. He would, in fact, oversee these programs in consultation with the superintendents or wardens of the institutions and other appropriate departmental personnel.

In this manner, the operation of the program, developed and monitored by the Council, would be the responsibility of the department charged with the overall responsibility for the institution. The educational component could thus be coordinated with the entire institutional program, and yet be planned and monitored by educators and public representatives. In our judgment, this method can achieve the objectives desired by the Study Commission without raising the problems we have noted.

G. COMMENT ON OTHER STUDY COMMISSION RECOMMENDATIONS CONCERNING ELEMENTARY AND SECONDARY EDUCATION

1. *Duties of the State Board of Elementary and Secondary Education.*

On page 24 of its Report, the Study Commission made a number of specific recommendations as to what the role of the State Board of Elementary and Secondary Education should be. These include:

(a) Performing the basic functions of the existing State Board of Education. With this we agree.

(b) Selecting its Chairman. This is currently done under Article 77, §4 (although the title "Presi-

dent" is used in place of "Chairman"), and we recommend retaining that procedure.

(c) Appointing the Commissioner of Elementary and Secondary Education. This is currently done under Article 77, §23, and we recommend retaining that power.

(d) Approving the budget of the State Department of Elementary and Secondary Education. This is currently done under Article 77, §19, and we recommend no change.

(e) Responding to plans and proposals advocated by Councils created by a Joint Education Board. In light of the discussion in Part IV of this Report, it is not necessary to comment on this recommendation.

(f) Designating standing committees with membership outside the Board to respond to policy alternatives under consideration by the Board. This may now be done under sections 7 and 8 of Article 77 and no legislative change is needed.

(g) Serving as the State board for vocational-technical education. This is now the case under §133 of Article 77 and we recommend no change.

(h) Designating seven of its members to serve on a permanent subcommittee, with direct staff assistance, to establish policy and programs for "special populations." The Board now has the authority to appoint whatever subcommittees it chooses—permanent or otherwise; and this power should be maintained. We do not believe that statutory subcommittees ought to be established, however. Moreover, the recommendation concerning "direct staff assistance" raises serious questions about the overall relationship between the Board and the Superintendent (Commissioner). The law now makes clear that the Board acts through the Superintendent (see Article 77, §§5, 7, 8, 106D), and that, through the Superintendent, the Department acts as staff to the Board. If the Study Commission's proposal is to have a staff outside the department, we foresee great problems of duplication and bifurcation of effort and recommend against it. If the proposed staff is to come from within the department, this is now the case, and no change is needed.

The entire Board must become more cognizant of the needs of these special populations—the handicapped, the gifted—and take the lead in developing proper programs for them. Much of this has already occurred through the enactment of §106D of Article 77 and through the long search to find more rational ways of funding these programs. Although we have no objection to the Board creating a subcommittee for special programs, we do not believe that legislation in this area is warranted.

(i) Administering the public school construction programs. This proposal is discussed in Part E above.

(j) Establishing policy and programs in elementary and secondary education, including early child-

hood education. The Board already has this responsibility under the law, and no changes other than those discussed above are needed.

2. Duties of the Department of Elementary and Secondary Education.

On page 24 of its Report, the Study Commission recommended a number of steps to be taken by the Department. None of these, in our judgment, require legislation in order to implement. One comment is in order about the proposal that the State Department "provide total resource planning assistance for local educational agencies." Although there follows, on page 25 of the Report, a description of some of the planning activities that may be performed, we caution against the State providing "total" resource planning. Most of the larger subdivisions already have sophisticated planning units; and, although State assistance and coordination ought to be available, general State intrusion into this area should be carefully limited.

3. Parent Advisory Councils

On page 29 of its Report, the Study Commission recommended that a "parent advisory council" be created in each public elementary and secondary school. The councils "would be chosen through a representative process and would be given practical assignments that could include advising the school on the expenditure of funds; advising the principal on the purposes and programs of the school; exploring the need for parent education; and making an annual evaluation and presentation to the local board of education, both in writing and in person."

Article 77, §49 already permits local boards to establish citizen advisory committees. In Anne Arundel and Worcester counties, this is mandated. We believe that the present law already authorizes the boards to implement the Study Commission's recommendation; however, the language in §49 could be made more clear. We recommend that that section be rewritten to require the creation of a county-wide citizen advisory committee in each county, composed of a fairly representative group of citizens in the county, including parents, teachers, and students. In addition, the local boards should be authorized to appoint similar advisory committees, either in particular schools or on a regional basis. In Baltimore City, and in some of the counties, these committees exist on a regional basis, and have apparently worked quite well. There is no reason, therefore, to require by statute that one be established for each school.

4. Regional Services.

The Study Commission, on page 29 of its Report, proposed that the Department of Elementary and Secondary Education "place certain appropriate

functions and a number of staff in regional settings." What staff and what functions were not specified.

Subject to capital and operating budget appropriations, the Department may do this now. The objective of bringing educational administration closer to the people and to the local school systems is a worthwhile one, but care must be taken that the department does not become so fragmented thereby as to create problems of administrative coordination that would lessen its efficiency.

The question of whether, how, and to what degree regionalization should occur ought to be left to the Department and not be legislatively mandated.

5. Collective Bargaining.

The Study Commission made two recommendations in the area of collective bargaining. One was that the bargaining process be between the local education board and the employees' representative. This is now the case. Efforts to bring the local government itself into the process have been made, and this is a matter that the General Assembly will probably consider as a separate issue. We make no recommendation with respect to it.

The other proposal was to expand the bargaining process to include matters that "more directly affect the learning of students." See page 29 of the Study Commission Report. The Study Commission did not specify what items it had in mind. We are somewhat concerned about this proposal. Certainly, matters dealing with compensation, benefits, and working conditions should remain subject to collective bargaining. Any expansion outside of these subjects, however, would intrude on areas of educational policy committed by law to the discretion of State and county education boards and superintendents. There are methods short of collective bargaining by which employee and general public input into policy making and program development and implementation can be achieved. PTA influence and the opportunity of employee representatives to meet with the county superintendent and appear before the board are examples.

6. Cooperative Arrangements.

The Study Commission suggested the possibility of local boards creating standing councils consisting of representatives of industry, local government, and education to develop a set of interrelationships from which could spring (i) a framework for the part-time involvement of students in industry and government—in effect, an educational work-study program, and (ii) the utilization of education's resources in providing instructional programs for industry and government.

There is a great deal of merit to this proposal which, in our judgment, does not necessarily require legislation to implement. Some attention must be

given to the child labor laws in this connection, and the State Board of Elementary and Secondary Education should do some research along these lines for the guidance of the local boards. Screening and guidance counselling techniques would undoubtedly have to be involved, as well as procedures for supervision and funding.

In summary, the Task Force endorses the proposal, but has no legislative recommendation.

7. Equalizing Educational Opportunity.

On page 30 of its Report, the Study Commission recommended that, with certain exceptions, Baltimore City be made subject to the provisions of Article 77. This is dealt with in Part C above. The Study Commission also suggested that "incentive funding at the county and State level could be established to encourage inter-county exchanges of ideas, processes, and resource people," although it failed to specify any particular framework either for such a program or for its funding.

There is always merit in cooperation among the counties and between them and the State; and this proposal should be explored. In the absence of any detailed description of specific programs by the Study Commission, however, we are unable to make a specific recommendation other than that the matter should be given serious attention by the appropriate county and State agencies.

8. Intergovernmental Relations.

The Study Commission, on page 31 of its Report, proposed that certain programs and services should be developed and operated on a cooperative basis by educational and other government agencies. No specific framework for this was suggested. We can see no impediment to these cooperative ventures under the present law, and therefore have no legislative recommendation to make.

III. RECOMMENDATIONS—HIGHER EDUCATION

A. INTRODUCTION

The Study Commission made a number of recommendations for very broad and dramatic changes in the structure and governance of higher education in Maryland, which became the focal point of much of the public and institutional comment received by the Task Force. Before dealing with each of these recommendations individually, we believe that it would be helpful to consider their overall effect on the present system. In that way, the various proposals and our reaction to them can be viewed in a broader and, in our judgment, more appropriate, context.

We now have in Maryland what has become popularly, but somewhat erroneously, known as a tripartite system of governance with respect to public higher education. When originally established in the

early and mid 1960's, Maryland had one University (the University of Maryland), one State liberal arts college serving exclusively or nearly exclusively black students (Morgan State College), five State teachers colleges (Bowie, Coppin, Frostburg, Salisbury, and Towson), one two-year liberal arts institution (St. Mary's Seminary Junior College), and a few community colleges. Control over the State teachers colleges and the community colleges was exercised by the State Department of Education. The University of Maryland and Morgan State College each had its own governing board.

The basis of the tri-partite system was that public higher education should be viewed as consisting of three elements—the University of Maryland, the State college system, comprising each of the State colleges, and the community college system. In order to create this tri-partite system, two principal changes were made. First, a board of trustees was created to govern and convert into full liberal arts colleges the five State teachers colleges, and control over them was removed from the State Department of Education. Second, the community colleges were confirmed as locally based and locally governed institutions. They already were primarily locally funded. In 1968 a new State Board for Community Colleges, to exercise a supervisory and coordinative function, was created; and control was removed from the State Department of Education.

Since the inception of the tri-partite system, a number of important things have happened; namely:

1. The five former State teachers colleges have been converted with varying degrees of success into full liberal arts colleges.
2. The University of Maryland opened a new campus in Baltimore County and merged with the former Maryland State College to create an Eastern Shore campus—UMES.
3. Morgan became a part of the State College system, losing its own governing board, and, last year, left the State College system by becoming a University with its own new governing Board.
4. The University of Baltimore, formerly a private institution with an undergraduate program and a law school, was acquired by the State and became part of the State College system, but was designated as an upper division (3rd and 4th year) institution.
5. St. Mary's Seminary Junior College became St. Mary's College of Maryland, a four year liberal arts institution, but retained its own board of trustees.
6. Community colleges have developed rapidly, both in number and in the population served. In 1974, for example, some 35% of the students enrolled in postsecondary schools in Maryland were in community colleges—more than those at the University of Maryland and double the number enrolled in all

the State colleges. A significant increase in State financial support for them has also occurred.

7. The Council for Higher Education was created to coordinate the growth and development of higher education in Maryland. Established initially as a very weak advisory body, the Council has developed in stature but still does not have adequate legal authority to coordinate effectively.

8. In the last (1975) session of the General Assembly, a bill was passed that changed the name of Towson State College to Towson State University, but did not otherwise change Towson's status of governance. The bill was vetoed by the Governor, and will again be before the General Assembly on the first day of the 1976 session with respect to sustaining or overriding the veto.

As a result of these developments, the "tri-partite" system is less of a reality than it used to be. Instead of having one governing body for the University system, one for the State College system, and a coordinative body for the community college system, we now have two universities, each with its own governing board, one proposed new University, five State colleges and the University of Baltimore, all governed by the same board of trustees, another state college with its own board, a coordinative body for the seventeen locally governed community colleges, and an overall coordinating Council without the necessary legal authority to coordinate effectively.

Against this background, the Study Commission recommended that each institution of postsecondary education have its own governing board, but that the State Board for Higher Education be established to exercise rather extensive control over these institutions, particularly in program and fiscal areas. The present Council for Higher Education, the Board of Trustees of the State Colleges and the State Board for Community Colleges would go out of existence and their staff would be transferred to a new Department of Higher Education and serve as staff to the new Board.

The reaction to this whole concept on the part of the affected institutions and agencies was generally hostile. However, after further consideration by the University of Maryland, the Board of Trustees of the State Colleges, the State Board for Community Colleges, and the Council for Higher Education suggested alternative approaches, the essence of which would be to strengthen the coordinative powers of the Council in certain areas, but otherwise to leave the present system generally intact.

The basic differences between the Study Commission's proposal and the alternatives suggested by the institutions concern three things: (1) should there be separate institutional governing boards for the State Colleges in place of the present Board of Trustees, (2) whether called the Council or the State

Board for Higher Education, what should be the extent of this agency's powers, and (3) should the State Board for Community Colleges be abolished and its functions be performed by the State Board for Higher Education?

Although these matters, and others that flow from them, are discussed in detail later in this Part III, suffice it to say in summary form that, after considerable discussion, we recommend the following which, with modifications, basically reflects the approaches supported by these institutions.

B. STATE BOARD FOR HIGHER EDUCATION

1. The Study Commission's proposals concerning a State Board for Higher Education are contained primarily on pages 20 and 26 of its Report.

They call for the creation of a fifteen member Board, selected in part by Congressional district as described in Part II of this Report with respect to the State Board of Elementary and Secondary Education. Although it is proposed that this be a "lay" board, the Study Commission stated that "four members shall have a familiarity with the community college functions, four with the State college mission, four with university objectives and purposes, and three with the needs of non public education." How this is to be done without getting into "segmental" representation was not made clear.

The proposed functions and powers of the Board are listed on page 26 of the Study Commission Report, and, to some extent, are supplemented on pages 31-34. They are as follows:

- (a) Select a Chairman for the State Board for Higher Education from among its membership.
- (b) Appoint a Commissioner of Higher Education.
- (c) Make overall policy of a planning and coordination nature for all of postsecondary education.
- (d) Formulate goal for higher education, as well as develop measurable objectives for monitoring the annual progress made toward achieving goals.
- (e) Review and approve institutional budget requests and develop a unified State budget for all higher education.
- (f) Operate a general and fiscal control information service.
- (g) Review and approve all new and existing programs.
- (h) Identify institutional mission.
- (i) Oversee capital development and improvement.
- (j) Determine the need for student financial assistance and find methods of administering student assistance programs.
- (k) Establish guidelines for tuition and fees for the State Colleges and Universities throughout the State.

(l) Assess State needs for manpower and propose programs which meet these needs.

(m) Establish procedures to assure freedom and flexibility for inter-institutional transfer throughout the State's postsecondary educational system.

(n) Establish general guidelines for faculty and administrative salaries.

(o) Respond to the plans and proposals advocated by the Councils created by the Joint Education Board.

(p) Prescribe the minimum requirements for issuing all certificates and diplomas, and academic, collegiate, professional, or university degrees for public and private postsecondary institutions.

(q) Administer State funds for private postsecondary educational institutions and assure that the purposes for which such funds were appropriated are met.

(r) Serve as the State postsecondary planning commission called for in Federal law.

(s) Determine the internal structural arrangement and staffing pattern necessary to perform its function.

(t) Call an annual meeting of members of all institutional governing boards.

2. The first question to be dealt with is whether, and to what extent, these powers should be exercised by a single Board or Council. From this will flow what the make-up of such a body should be. In this context, the proposals of the Study Commission must be related to the composition and functions of the present Council for Higher Education, as set forth in sections 28-32 of Article 77A.

The Council for Higher Education is a thirteen member body appointed by the Governor with the advice and consent of the Senate. Of the 13 members, by law one is a representative of the University of Maryland nominated by its Board of Regents, one is a representative of the State colleges nominated by the Board of Trustees, one must be a member of the State Board for Community Colleges, and one is a representative of the private colleges and universities in Maryland. These four are referred to as the "segmental" representation on the Council. The other nine members are appointed from the public at large. There is no requirement that these "public" members not be connected with an institution of higher education, and, in fact, two of the incumbent public members are so connected. There is a requirement that not more than two members "shall have attended the same institution of higher learning."

Aside from appointing an Executive Director and serving as the State postsecondary education commission under Title XII of the Higher Education Act of 1965, the Council is basically an information gathering, research, and recommendatory body, with

no legal or fiscal authority over the various post-secondary agencies and institutions.

Given the nature of the recommended function and powers of the new body, as discussed below, we propose that it be called the State Board for Higher Education, rather than a Council. To a degree, this is "cosmetic", as the important thing is what the Board will do, not what it is called.

3. With respect to the functions and powers of the new Board;

(a) We concur in Recommendation (a) of the Study Commission that the Board select its Chairman from among its members. We do not propose that the Chairman have any independent powers, other than to call and chair meetings.

(b) We concur in Recommendation (b) that the Board appoint a Commissioner of Higher Education. This person would have no independent executive authority, as the Commissioner of Elementary and Secondary Education would have, but would merely head up the staff to the Board. He would, however, be a member of the Governor's cabinet, which would mark the first time that a spokesman for post-secondary education would be represented in the cabinet.

(c) Recommendations (c), (d), (h), and (l) should be considered together, as they each relate to overall planning and the setting of objectives and priorities for and within higher education. Basically, we concur in these recommendations, although we prefer to state them somewhat differently.

We believe that the first priority of the Board should be to investigate and evaluate, on a continuing basis, the present and future needs throughout the State for postsecondary instruction, research, and public service and the capabilities of the various public and private institutions and agencies of post-secondary education in Maryland to meet those needs. This will tell us what we have and what we need.

Based upon this assessment, the Board should then develop an overall plan for higher education, setting forth on both a long range and short range basis, the objectives and priorities of postsecondary education and methods and guidelines for achieving and maintaining those objectives and priorities. This will show us the way to span the gap between what we have and what we need.

Both the evaluation and the plan should be developed in close consultation with the affected agencies and institutions. The first plan should be submitted to the Governor and General Assembly by July 1, 1978, with an annual review of it each July 1 thereafter. This will not only keep the Governor and General Assembly continually informed, but give them a reasonable opportunity to review the plan and the progress made under it before each legislative session. Budgetary and other legislative deci-

sions can then be made on a more rational basis, against the backdrop of the overall plan.

We conceive of the plan encompassing the features contained in Recommendations (c), (d), (h), and (l).

(d) Recommendation (e), concerning review and approval of institutional budget requests, has attracted a great deal of critical comment from the educational institutions and agencies, who see in the approval power merely another frustrating roadblock in the budget process.

As conceived by the Study Commission, the Board would have the power to make cuts and to shift requested appropriations both within and among the institutions and agencies, and then to develop a unified budget for all of higher education.

We believe that there is merit in having a unified budget for higher education, as this would give the Governor, the General Assembly, and the public a better grasp on both the State's total commitment to higher education and the relative part of it going to each of the institutions and agencies. A properly constructed unified budget would also allow for more rational overall fiscal planning and decision making in the context of the long and short range plans developed by the Board.

We also believe that input by the Board into the budgetary process is both necessary and valuable. Whatever plan is adopted by the Board and accepted by the Governor and General Assembly will have little validity if budget decisions are not made with reference to it. But, it is not necessary to give budget approval power to the Board in order to achieve these objectives; and we agree with the concerns of the institutions that such power would involve only an unnecessary bureaucratic roadblock in an already complex procedure.

Instead, we propose that the various agencies and governing boards work with the Commissioner in preparing their budgets, and submit their requests to the Board for its review. The Board should have no power to tamper with the individual budgets, but should (1) consolidate them, as presented, into a unified budget for presentation to the Governor, and (2) make its own recommendations to the Governor and the General Assembly with respect to the budgets.

In this way, three worthwhile objectives are achieved. First, by working with the agencies and institutions in the preparation of their budgets, the Board, through its staff, can become intimately acquainted with their individual needs. Second, a responsible body can prepare a unified budget without involving another layer of decision making bureaucracy. And third, with the Board's recommendations to guide them, the Governor and the General Assembly will have an independent educa-

tional assessment of the budget requests. At present, all they have are the requests and comments from their respective fiscal advisors, but not an overall evaluation from an educational point of view. The Board's comments and recommendations will, in effect, become the guardians of the adopted plan.

In oral discussions conducted as part of the presentations by the various agencies and institutions, we were apprised that none of them objected to this approach.

(e) Recommendation (f) is that the Board should operate a general and fiscal control information service. To a large extent, the present Council has this authority under §30(a)(6) of Article 77A. The Board should act as an information gatherer and clearinghouse, but it ought not to duplicate work already done elsewhere. We prefer to retain the authority generally as expressed in the present law—i.e., to secure, compile, and evaluate data, statistics, and information on any matter within its jurisdiction.

(f) Recommendation (g) is that the Board be empowered to review and approve all new and existing programs. The University of Maryland, in its paper presented to the Task Force, agreed that the Council for Higher Education, or its successor, ought to have the power of approval of "all new programs in public institutions, either in fields of study not currently offered by a given institution, or at degree levels not currently offered by the institution." The same recommendation was made in a paper offered by the Council for Higher Education.

We concur that the Board should have approval power over all proposals for new public programs, as well as proposals to make substantial modifications in existing ones. This authority is essential if the Board is to be able to implement the overall plan. The inauguration of new programs and the discontinuance, or significant expansion or reduction of existing ones, will have an effect on the development of higher education generally and may have fiscal implications as well.

We do not believe, however, that all *existing* public programs should be subject to Board approval as a condition to their continuation. Not only would this be a mammoth and impractical task to accomplish, but if undertaken with any appropriate degree of quality and sophistication, it could create unnecessary uncertainty within the various institutions until it was completed. We propose instead that the Board be empowered to review existing programs, as part of its overall evaluation of higher education, and to make recommendations with respect to their continuation and modification. Ultimately, these recommendations can form the basis for policy and budgetary decisions by the institutions, the Governor, and the General Assembly.

By virtue of our concurrence with Recommendation (p), discussed below, the Board would have some additional control over existing programs by virtue of its authority to establish certain minimum standards for the granting of certificates, diplomas, and degrees, and to enforce these standards through its approval power.

(g) Recommendation (i) is that the Board "oversee" capital development and improvement. The Study Commission did not indicate what it meant by "oversee", i.e., what the parameters of the Board's authority would be, except that on page 34 of its Report the Commission proposed that the jurisdiction to negotiate and approve capital projects be removed from the Department of State Planning and vested exclusively in the Board.

Unquestionably, capital projects proposed by the institutions must be considered in the context of the overall plan for higher education, and should be reviewed by the Board. But these proposals will have fiscal implications beyond merely the educational framework, and will have to be judged in the context of the State's overall fiscal policy and constraints as well. This is particularly true where the creation of State debt is involved, but it is valid even where revenue bonds are proposed.

Thus, control over capital development ought not to be vested solely in an educational board. An educational evaluation of these types of projects is important, but the Governor and the General Assembly are also entitled to an assessment of them from a fiscal point of view. The Department of State Planning therefore must continue to play a significant role.

We recommend that proposals for capital projects and improvements be submitted to the Board, and that the Board, in consultation with the Department of State Planning, review them and make recommendations to the Governor and the General Assembly. To the extent that the two agencies do not agree, at least the decision makers will have both points of view.

(h) Recommendation (j) is that the Board should determine the need for student financial assistance and find methods of administering assistance programs. As supplemented by discussion on pages 32 and 33 of the Study Commission Report, this proposal involves abolition of the State Scholarship Board and the Higher Education Loan Corporation, and a transfer of their functions to the staff of the new Board for Higher Education.

This recommendation concerns two issues: (1) what should the State financial assistance program be, and (2) who should administer it.

The student loan program, administered by the Higher Education Loan Corporation is basically structured around the federal program. The State

scholarship programs have been under consideration by the General Assembly for many years, but, despite the advancement of several different proposals, attempts to change or better coordinate them have remained hotly contested. In our judgment, the Legislature will continue to view this issue as a separate one.

With respect to who should administer the programs—whatever they are—this decision should follow the legislative determination as to what the programs should be. We therefore make no recommendation. We do propose, however, that the Board study and make recommendations with respect to improving and coordinating student financial assistance programs and coordinating State and federal programs of support for higher education generally.

(i) Recommendations (k), (m), and (n) would have the Board establish guidelines for tuitions and fees at the State colleges and universities, general guidelines for faculty and administrative salaries, and procedures to assure flexibility in inter-institutional transfers. These are necessary adjuncts to the Board's overall proposed responsibilities, and we concur in the recommendations. It is important to note that the Board would not set the fees or salaries, but only establish guidelines for the use of the institutions, the Governor, and the General Assembly.

(j) Recommendation (o) would have the Board respond to proposals of a Joint Education Board and Councils created by it. In light of the discussion contained in Part IV of this Report, comment on this recommendation is unnecessary.

(k) Recommendation (p) is that the Board prescribe the minimum requirements for issuing certificates and diplomas by the public and private postsecondary institutions. This authority is now exercised by the State Board of Education, under Article 77, §11, and it ought to be vested in the Board for Higher Education. We therefore concur in the recommendation, as does the State Department of Education. Moreover, we believe that the authority of the State Department of Education under sections 151-159 of Article 77, dealing with fraudulent or substandard degrees, should be transferred to the State Board for Higher Education.

(l) Recommendation (q) is that the Board administer State funds for private postsecondary educational institutions and assure that the purposes for which the funds were appropriated are met.

The program of State support for private postsecondary institutions is authorized by sections 65-69 of Article 77A. The aid is basically on a formula approach—the number of full-time equivalent students times 15% of the State general fund appropriation per full-time equivalent student to the State four year public colleges. The Board of Public Works, assisted by the Council for Higher Education, is

authorized to adopt criteria and procedures for implementing and administering the program.

As the basic criteria have already been set as to eligibility and procedures, and as the calculation of the aid is mostly a mathematical matter, we agree that the full administration of the program could be transferred to the Board. No additional staff or day to day operational responsibilities should be involved.

There are two other matters concerning private institutions that should be addressed. In addition to its present power under Article 77, §11, to set criteria for the awarding of degrees, diplomas, and certificates, the State Board of Education and the State Superintendent of Schools share a power to approve the opening and continuation of private schools under section 12 of that article. To the extent this power applies to postsecondary institutions, it ought to be vested in the Board for Higher Education. As a concomitant to this authority and the power to administer the program of State support, the Board for Higher Education should also have the ability to review programs and proposed capital projects within the private institutions for which State funds are requested.

(m) Recommendations (s) and (t) are that the Board determine its internal structural arrangement and staffing pattern, and that it call an annual meeting of all institutional governing boards. Subject to appropriate budgetary and personnel rules, the Board would have to do the former. As to an annual meeting of all the boards together, we have no comment other than that such a requirement should not be statutory.

(n) A further recommendation of the Study Commission, not included in its list on page 26, but mentioned on page 34, is to transfer the functions of analyzing and negotiating the details of the budgeting process from the Department of Budget and Fiscal Planning to the staff of the new Board.

It is not entirely clear what the Study Commission meant by "analyzing and negotiating the details of the budgeting process." To the extent that it relates to the procedures for developing the budget, we do not concur in the recommendation. As we noted earlier, the State Board for Higher Education should have substantial input into the development of the budget for postsecondary education; however, we think that the Governor and General Assembly are entitled to an independent fiscal review of requested appropriations.

To the extent that the proposal applies to the procedures for expending appropriated funds, we believe that, conceptually, the colleges and universities should have more control over the expenditure of their funds, at least within certain categories. The two Universities have a measure of this control now—the University of Maryland has had it for many

years, and, to a degree, Morgan achieved it last year. We are concerned as to whether the State Colleges or the Board of Trustees have the fiscal expertise or have shown the fiscal responsibility within their own staffs to be free of all controls, however. We urge that this expertise and responsibility be developed, and that, when it is, the colleges be given more flexibility in this area.

We do not believe that the review and monitoring functions now exercised by the Department of Budget and Fiscal Planning should be transferred to the Board for Higher Education. The Department of Budget and Fiscal Planning performs these functions for nearly all State agencies in order to assure compliance with established fiscal and personnel policies and regulations; and, in that context, we see no reason to divest that Department of this responsibility and place it in a new board merely because educational institutions are involved.

4. Returning now to the size and composition of the Board, we would prefer that it be an entirely "lay" board, without segmental representation. This is the view advocated by the University of Maryland. However, the Study Commission also recommended that this Board should be the State postsecondary education commission under the Title XII of the Federal Higher Education Act, as the Council for Higher Education is now. Section 1202 of that Act requires that the State commission be "broadly and equitably representative of the general public and private nonprofit and proprietary institutions of postsecondary education in the State including community colleges . . . , junior colleges, postsecondary vocational schools, area vocational schools, technical institutes, four year institutions of higher education and branches thereof."

To our knowledge, there have been no regulations issued interpreting this statutory requirement; but it would seem apparent that a totally "lay" board may not comply with it, and thereby may endanger certain federal funding. In the absence of any clear indication from the Federal government as to how the statutory requirement in §1202 will be construed, we propose that the Board generally consist of eleven lay members.

In order to comply fully with the requirements of Section 1202, we propose that the Board itself not be the State postsecondary education commission under Title XII. Instead, that commission should consist of the members of the Board augmented by ~~four~~ ^{five} segmental members. Of these ~~five~~ ^{five}, one should represent the State's universities, one the State Colleges, one the community colleges, one the private colleges and universities, and one the vocational-technical proprietary institutions.

The members of the Board should be appointed by the Governor with the advice and consent of the

Senate for staggered terms of five years. The segmental members of the Title XII Commission should have ~~three~~ ^{five} year terms, to allow for better rotation among the institutions.

For essentially the same reasons discussed with respect to the State Board of Elementary and Secondary Education, we recommend that the Board for Higher Education act only upon the affirmative vote of six members.

C. THE UNIVERSITY OF MARYLAND

Subject to the jurisdiction of the proposed State Board for Higher Education, described in Part III-B above, we recommend no change in the current structure and governance of the University of Maryland.

D. MORGAN STATE UNIVERSITY

Morgan achieved University status on July 1, 1975, with its own governing Board.

The law that made Morgan a University (Chapter 550, Acts of 1975), authorized its governing board to review the existing institution with respect to its present programs and functions as well as its actual and potential capabilities, and to develop and define a policy for the University. See Article 77A, §74. This law was enacted after the Study Commission had concluded its work, but before its Report was printed.

The Study Commission recommended University status for Morgan with its own governing board. It further recommended that the governing board submit a five year plan covering (1) recommended doctoral programs, (2) faculty and staff development, (3) proposed research activities to support advanced graduate programs, and (4) provisions for cooperative planning with other postgraduate institutions in the metropolitan Baltimore area. See page 33 of the Study Commission Report.

We believe that planning for the future development of Morgan State University should commence promptly. This can be done within the framework of existing section 74, supplemented by the planning authority that we recommend be given to the State Board for Higher Education. See part III-B above.

There is one important issue with respect to Morgan (as well as the State Colleges) that was not adequately addressed either by the Study Commission or by the General Assembly in enacting Chapter 550; and it must be resolved.

Prior to the mid 1960's, the construction of dormitories and student union facilities at the State colleges was financed through the State general construction loans—i.e., full faith and credit bonds. A new fiscal policy was then established, however, under which these types of facilities, which are revenue producing, would, in the future, be built with the proceeds of revenue bonds rather than through the

creation of additional State debt. This type of funding had already been authorized and used for the University of Maryland, and, on a limited basis, for Morgan State College which, at the time, had not yet come under the jurisdiction of the Board of Trustees of the State Colleges.

To effect this change with respect to the State Colleges, sections 165A-165J were added to Article 77 (now, with amendments, codified as Article 77A, §§12A-12J), authorizing the Board of Trustees to construct dormitory facilities at the State Colleges, to issue up to \$2,000,000 of revenue bonds, and to pledge the revenues from the facilities to be built and an increase in the fees from existing facilities to pay for them. The initial implementation of this power was the construction of dormitories at Frostburg and Salisbury. Two series of revenue bonds were issued by the Board, one for Frostburg and one for Salisbury, to which were pledged, as to each respective series, the revenues from the dormitory to be constructed at the college and the revenues derived from an increase in the rental fees for the other dormitories at the college. At or about the same time, similar authority was given to and exercised by the Board of Trustees of St. Mary's College. See Article 77A, §§14-14K. In 1966, the Board of Trustees of the State colleges was given the authority to construct a multi-purpose student union building at Towson, to be funded by revenue bonds supported by the revenues from that facility.

Several years later, it became apparent that this system of having each college stand on its own with respect to dormitory and other auxiliary facility construction (i.e., having to support additional construction from the revenues from its own facilities) was unworkable. There would like be insufficient revenue to make the issuance and marketing of additional bonds practical.

Thus, in 1969, the construction and bonding authority of the Board of Trustees was amended to the form that now exists in sections 12A-12J of Article 77A. The Board was authorized to build auxiliary facilities (dormitories, dining halls, student union buildings) at any of the State Colleges under its jurisdiction, and to support its revenue bonds by a pledge of revenues from any such facility at any of those colleges. In effect, the Board was authorized to pool all of these facilities and to use the total revenue from them to support all future revenue bonds.

The Board has exercised this power, and has issued two additional series of bonds for the construction of Student Union facilities supported by a consolidation of student union fees. The Trust Indenture entered into by the Board, as supplemented, obligates the Board to set certain fees for student union facilities at Bowie, Coppin, Frostburg, Salisbury, Towson, and Morgan, and pledges these fees to

the bonds. Following the provisions of §§12A-12J, the Indenture, by contract, confirms the control of the Board over the fees and future student union facility construction at these institutions.

This raises significant legal and policy considerations. It is extremely doubtful that, as a matter of federal constitutional law, the powers and obligations given to the Board of Trustees by §§12A-12J and the Trust Indenture could be delegated back to the governing board of Morgan, or for that matter, any new institutional governing boards, as the effect of that may well be to impair the Board of Trustees' contractual obligation.

The policy question is essentially the same as that which prompted the pooling arrangement in the first place; namely, whether, legal questions aside, the colleges (and Morgan) would have the fiscal capability of financing further construction if left to their own resources. It is not likely that the State will be able to reverse its policy of not funding these projects through full faith and credit bonds; nor, in our judgment, should it do so.

This leaves the alternatives, for the present at least, of continuing these powers and responsibilities in the Board of Trustees, even as to Morgan, or placing them in the proposed new Board for Higher Education. In light of our recommendation as to the continuation of the Board of Trustees and the knowledge and experience developed by that Board, we believe that, for the present, this authority ought to remain there.

We do recommend, however, that, as one of its high priorities, the State Board for Higher Education, in consultation with the Department of State Planning, look into the whole question of how best to finance auxiliary facilities at all of the State colleges and universities, and, as part of its plan, develop proposals in this area.

Chapter 550 authorizes the governing board for Morgan to fix tuition and other fees (§74(c)) and to construct housing units and issue revenue bonds to fund them (§75-82). These powers may remain, but they will have to be made subject to the jurisdiction of the Board of Trustees under §§12A-12J.

Finally we believe that the governing board of Morgan should contain a student member. There is currently student representation on the University of Maryland Board of Regents and on the Board of Trustees of the State Colleges.

In all other respects, we propose no legislative changes concerning Morgan State University.

E. THE STATE COLLEGES

One of the most vexacious of the issues dealt with by the Task Force concerned the Study Commission recommendation to do away with the existing Board

of Trustees of the State Colleges and to create separate governing boards for each of the colleges.

An outline of the recent history and development of the colleges is contained in Part III-A above, and some of the fiscal history pertaining to them is included in the discussion of Morgan State University in Part III-D above. The Study Commission, while setting forth the duties that these institutional governing boards would have, assigned no specific reasons for its general recommendation to substitute them for the present Board of Trustees.

At the present time, the State Colleges are governed by a single nine member Board of Trustees appointed by the Governor for nine year terms. One of the members is the State Superintendent of Schools, and one member must be a student at one of the State Colleges. This Board, as part of its governing powers, with respect to each college under its jurisdiction, selects the president, employs the faculty, prepares the budget, sets the various tuition and other fees, establishes tenure rules and student policy, and controls the funds and property of the colleges. See Article 77A, §§11, 12. Each college has its own Board of Visitors, which is principally an advisory body to the Board of Trustees and the college president. See Article 77A, §12-1.

The Task Force considered the Study Commission's recommendation in the context of the overall structure and governance of higher education—not as a self-contained proposal. The issues that were weighed were essentially these:

(1) Given the successful conversion of the colleges from teacher training institutions into liberal arts colleges, with their own developing or developed missions, can their future progress be better assured by their having their own boards rather than their being grouped under one board?

(2) Would the dissolution of the present Board leave the colleges, or any of them, at a competitive disadvantage for attention and funds *vis a vis* the two Universities, the community colleges, and each other? In other words, would they be losing a helpful coordinative mechanism to filter out and resolve problems within the State College system itself, as well as an advocate for them all stronger than the collection of individual boards?

(3) In light of the "pooled student union facilities" arrangement discussed in Part D, what effect would dissolution of the present Board of Trustees have on the ability of the colleges to finance future capital projects of this nature. If control over such future construction is placed in the Board for Higher Education, would that Board then become more "operational" than is desirable?

The answers to these questions are not easy; there are valid and persuasive points to be made on both sides. On balance, the Task Force believes

that the present Board of Trustees should remain in existence, at least for the present, as should the individual boards of visitors. Our reasoning is as follows:

(1) If individual governing boards are established, there may be more impetus for each college to go its own separate way, without regard to the other colleges and universities in the system. Each college would attract its partisan supporters who will tend to look only to the development of that college. A fair, rational, and impartial administration of the overall plan for higher education may therefore become considerably more difficult, as varying degrees of lobbying pressure is exerted. Among other results, this could conceivably lead to sectional splintering in the General Assembly as the Baltimore and Prince George's county, Western Maryland, and Eastern Shore delegations become embroiled in the fight to support the colleges in their areas.

(2) There would likely be an unevenness in the ability of the colleges to survive and progress in the competition with each other and with the two universities. We are deeply concerned that the smaller colleges may get lost in the shuffle.

(3) As noted later in this Report, we recommend that both Morgan and the Board for Higher Education begin a prompt and serious study of how better to coordinate collegiate programs in the metropolitan Baltimore area. Such a study may indicate a need for further changes in the structure and governance of higher education. So also might a study of the system on the Eastern Shore, as we discuss later in Part G. If we now establish separate governing boards for each of the State colleges, the practicality of implementing any substantial changes which may be recommended as the result of these studies would be greatly lessened. We would therefore be, in part, foreclosing options that may, in the future, be desirable.

(4) The current Board of Trustees and its staff have become familiar with the needs of the State Colleges, and particularly their plans for future growth. Although in part this knowledge can be transferred to the staff of the Board for Higher Education by transferring the staff of the Board of Trustees, it will take some time for the Board itself to become familiar with the needs of the colleges, especially since its first priority will be overall evaluation and planning. In the meanwhile there would be an unfortunate hiatus with the new governing boards and the Board for Higher Education getting their collective feet wet all at the same time.

(5) In our judgment, it would be impossible on legal grounds and undesirable on fiscal grounds, to dissolve the pool of student union facilities established in 1969, and leave each college on its own as to future capital development. In fact, consideration should be given to expanding the consolidation con-

cept to other types of facilities. If the authority and responsibility under §§12A-12J and the Trust Indenture executed pursuant to them are shifted to the State Board for Higher Education, that board would then have an operational control over the State Colleges that it would not have over the other segments of the system. It would have the power (and duty) to set fees and control, to a more direct degree, the future construction of these facilities. This authority would give the Board a very direct "say" into the operation of the college and the development of its budget, and, to that extent, withdraw that authority from the college's board of trustees.

As we noted earlier, there are valid and cogent reasons for creating separate institutional boards; and, as the State Board for Higher Education, with its strengthened planning and coordinative powers, begins to develop an overall plan for higher education, it ought to take a closer look at this issue. It may well be that with respect to some or all of the colleges, the advantages of separate governing boards will become dominant, and that the problems we have noted can be resolved. Our recommendation should in no way be construed to foreclose future consideration of the issue.

However, despite the need for a Board of Trustees at present, we believe that the Board should be restructured and that it should exercise its powers, particularly in the fiscal area, in better fashion than it has in the past.

We think that a nine year term is too long, and that, consistent with our recommendations with respect to other boards, the term should be five years. We also believe that the Commissioner of Elementary and Secondary Education should not be an ex officio member of the Board, but should be replaced by a member from the general public. Members should not serve for more than two full terms.

We are concerned that the Board has not exercised adequate fiscal and budgetary controls over the colleges. Most urgently needed are a clear-cut statement of policies and procedures relating to expenditures to be followed by the colleges, and a strong internal auditing system.

To this end, we recommend that the Board appoint an Associate Executive Director for Financial Affairs, who should be an experienced fiscal officer. This person should be assigned the following duties:

1. To prepare all reports, analyses, budget documents and similar materials relating to the capital and operating budgets and to other financial affairs of the Board and the colleges;

2. To work closely with each college to assure regular and proper compliance with approved budgets, budgetary procedures and all other author-

ized financial procedures that pertain to the proper and successful financial management of the colleges;

3. To supervise a limited and qualified staff of auditors, responsible to the Board, who shall assist the colleges in the proper compliance with established financial and budgetary procedures of the Board and of other appropriate agencies of the State of Maryland.

Finally, we recommend most strongly that the status of the State Colleges not be changed without the prior approval of the Board for Higher Education.

F. THE COMMUNITY COLLEGES

The Study Commission proposed to do away with the State Board for Community Colleges, and to transfer its staff and functions to the Department of Higher Education. Aside from the effect of this and the various new powers to be assigned to the State Board for Higher Education, no other recommendations were made with respect to the structure and governance of the community colleges.

Originally, community colleges were created and governed by the local boards of education, with the approval of the State Superintendent of Schools. Since 1969, the jurisdiction of the State Superintendent has been transferred to and been exercised by the State Board for Community Colleges, and the local boards of education have divested themselves of governing authority over the colleges in favor of separately created boards of community college trustees.

Although the State provides substantial financial support to these colleges, they are and should remain what their name implies—community colleges, locally governed. There are now 17 community colleges in Maryland serving some 50,000 full time equivalent students.

The State Board for Community Colleges is an eight member body that administers the program of State financial support for the colleges and otherwise acts as an advisory, consultative, and coordinative body. Its legal authority over the community colleges is scant; its practical authority, even within the realm of its statutory functions, appears to be largely the product of its own professional stature.

Because of their unique nature as both terminal and transfer institutions and the fact that they are local colleges, the community colleges have problems and missions unlike the State Colleges and universities. There is, therefore, a need for an intermediate coordinative body familiar with their needs and functions. Otherwise, the State Board for Higher Education would have to exercise a more direct control function over the activities of these locally based colleges, which, in our judgment, would be undesirable. Thus, we recommend that the State Board for Community Colleges remain in existence.

We do perceive, however, certain areas in which the State must retain control, even with respect to community colleges, if we are to have a rationally coordinated structure of higher education. In many instances, the decisions made by the local boards of trustees will have little impact on other segments of higher education. In some cases, though, they may have substantial impact. The establishment of a new community college, the inauguration of a new program, or a significant expansion of an existing one, may well affect or duplicate a similar program at a nearby State College or University, or even a nearby community college across the county line. Such decisions may not only create an unnecessary drain on State resources but engender unnecessary competition between institutions.

If the State Board for Community Colleges is kept in existence, it can serve to screen out some of these things and at the same time be an advocate for the colleges. Upon this premise, we do not believe that subjecting the community colleges to the jurisdiction recommended for the Board for Higher Education would involve the type of State intrusion justly feared by the colleges. It would, however, preserve the State's role in effective coordination. Given the trends in the growth of community colleges, both absolute and in relation to the other two segments of higher education, it should, in addition, enlist that Board as a powerful ally for the colleges.

The real function of the Board for Higher Education, in terms of the community colleges, will be to look closely at the impact of their decisions on the other institutions, and vice versa. If this is done, the activities of the two boards would be complementary, not duplicative.

The State Board for Community Colleges consists of eight members appointed by the Governor, with the advice and consent of the Senate, for six year terms. Of the eight members, one is the State Superintendent of Schools, ex officio, and one must be a student at one of the community colleges. The student's term is one year.

We recommend that the term be reduced to five years, which is the term we recommend for the other education boards. In addition, we do not believe that the State Superintendent of Schools should be an ex officio member of the Board, but should be replaced by a member of the general public. Finally, we think that a member should not serve more than two full terms.

G. EASTERN SHORE UNIVERSITY SYSTEM

The Study Commission proposed that a "regional university system" be established for the Eastern Shore, to be effected initially by a merger of UMES and Salisbury State College. Subsequently, "all other postsecondary educational resources in the region"—

Chesapeake Community College, the research facility at Horn Point, and a planned vocational-technical center—would be brought into the system. The Study Commission did not describe the organization and structure of the proposed regional university system, other than that it would be headed by a single board, but suggested that, after the initial merger of UMES and Salisbury, a ten year plan be developed by the new governing board. See page 34 of its Report.

The question of whether there ought to be two separate four year institutions, some fourteen miles apart, on the lower Eastern Shore has been debated for a long time, long before UMES was created. There are 3,200 fulltime students attending Salisbury, predominantly white, and 1,190 students attending UMES, predominantly black. Recently—perhaps as a result of the Study Commission's proposal—there has developed a new cooperative spirit between the two institutions that, even in the absence of any change, may achieve some positive results in terms of coordination, non-duplication, and making the programs at each institution available to students at both schools.

Even if we were to assume, however, that a merger of the two schools is desirable, there are alternatives to the Study Commission proposal of creating a new University that ought to be considered, especially if the end result is to encompass all postsecondary education in the new university and thereby leave no State College and community college in the area. The Study Commission did not discuss any other alternative in its Report, but instead, as noted, opted for an immediate merger of UMES and Salisbury and then planning for what the new university was to be and become.

It may well be that, after the planning is done, the proposals of the Study Commission will turn out to be the best alternative. But, in our judgment, the planning ought to be done before the university is created, not afterward. This planning can be a high priority for the State Board for Higher Education. In the meanwhile, the "dialogue" and cooperation recently enhanced between the two institutions, should continue unabated.

H. THE DEPARTMENT OF HIGHER EDUCATION

The Study Commission recommended that the staff of the various agencies it proposed to dissolve (the Council for Higher Education, the Board of Trustees of the State College, the State Board for Community Colleges, the State Scholarship Board, and the Higher Education Loan Corporation) form the nucleus of a new Department of Higher Education which, under the direction of the Commissioner of Higher Education, would act as staff to the Board.

We agree that the Board will need a staff, and concur with the proposal to have a Commissioner of Higher Education to head it. However, we see no need to create a new Department which will have only staff functions. If the Board were to be a governing board or one with extensive executive power, heading a sizeable agency charged with implementing its decisions, as is the case with the State Board of Education, the creation of a Department might be justified. But we do not see that role, either for the Board or its staff. The Commissioner and his assistants are to be planners, researchers, information gatherers, and coordinators—not executives. The Board's policy decisions should be implemented primarily by the institutional governing boards, not by the Commissioner.

Thus, we recommend against creating a Department of Higher Education. The Commissioner and his assistants should be staff to the Board.

I. EDUCATIONAL POLICY ANALYSIS CENTER

The Study Commission proposed the creation of an Educational Policy Analysis Center at the University of Maryland, basically to analyze and make recommendations with respect to various aspects of educational policy and governance. Much of this work should be done in an institutional setting, but it need not be done exclusively at the University of Maryland. To the extent there is a need for this type of research, the methods of providing for it should be included in the overall State plan developed by the State Board for Higher Education.

J. METROPOLITAN BALTIMORE UNIVERSITY

There has been much discussion about combining various institutions located in the metropolitan Baltimore area into a new multi-campus University system for that area; however, neither the policy questions nor the fiscal implications of such a change have been adequately explored. We are therefore in no position to make any considered or meaningful comment on that proposal. We do believe, however, that the State Board for Higher Education and Morgan State University, as part of their respective planning responsibilities, should give prompt and serious consideration to this matter.

IV. RECOMMENDATIONS ON COORDINATION OF ELEMENTARY AND SECONDARY EDUCATION AND HIGHER EDUCATION

As noted earlier, the Study Commission recommended reconstituting the State Board of Education as a fifteen member Board of Elementary and Secondary Education, and the creation of a new fifteen member Board for Higher Education.

It then proposed that, on at least four occasions each year, the two boards sit together as a 30 member

Joint Education Board. This Joint Board would have four principal functions; namely.

(1) To nominate persons to the Governor for appointment as the Chairman of the Joint Board;

(2) To establish and implement policy for coordinating the efforts of the two constituent boards;

(3) To establish "councils" and approve appointments to them; and

(4) To put together a joint budget for all of education and to determine how much each segment must cut or add if a revision is ordered by the Governor.

The Joint Chairman is to be the "spokesman" for education. He would execute Joint Board policies, oversee interboard cooperation, and supervise the staff to the Joint Board and the councils.

The whole thrust of this proposal is to develop a mechanism for the coordination of both branches of education (elementary and secondary and post-secondary) and to have one spokesman for all of education.

The Study Commission further recommended that the Joint Board appoint various "councils", consisting of board and non-board members to "assist the Board in coping with the complexities of the future." As stated on page 22 of the Study Commission Report, the Councils would have at least these functions:

(1) to serve as a unit of educational governmental apparatus to plan, organize, and monitor services which do not clearly fall within the separate purviews of elementary and secondary or post-secondary education;

(2) to provide a stance of advocacy for students who have special needs and requirements that tend to be disregarded by the on-going system; and

(3) to advocate reform and new procedures.

At least seven areas were suggested for which a council should be created and it is clear from the description of their proposed duties that the councils would be much more than recommendatory or advisory bodies. For example, the council on "teacher education certification, and institutional accreditation" would "serve as the connecting link between public and nonpublic education at the State level" and would "set standards for accreditation and certification and . . . establish criteria for the approval of programs in nonpublic institutions." The Council for vocational-technical education would "develop an annual plan for the coordination of vocational-technical education among the various segmental parts of education." Analogous responsibility for Statewide planning would be given to councils on special education, educational services, and educational technology and communications.

The Study Commission proposed that these councils be staffed, and that the Joint Board be required to respond to their plans.

These recommendations—of a Joint Board, a Joint Chairman, and staffed councils—have attracted more critical comment than any other made by the Study Commission. Basically, the objections expressed are:

1. They would create an enormous and unnecessary bureaucracy;
2. They would tend to blur and obstruct lines and channels of communication among the various components of the educational system, rather than to clarify them;
3. They would tend to "politicize" education by placing too much power in the hands of a gubernatorial appointee—the Joint Chairman.

In the public hearings held throughout the State, and in most of the written responses received by the Task Force, we found no general support for this manner of achieving coordination between the two branches of education. The reaction was almost entirely negative.

In our judgment, most of the objections are well-founded. The combination Joint Board-Joint Chairman-Council approach would create an unwieldy and largely unnecessary bureaucracy to undertake tasks that can be better undertaken in other ways. The duties recommended for the councils in many ways will overlap with each other and with the specific responsibilities assigned to the two Boards and to the Department of Elementary and Secondary Education. We foresee the opportunity for petty jealousies, jurisdictional disputes, and an overall politicization of the structure extending well beyond the matter of a gubernatorial appointment, all of which can well lead to bureaucratic anarchy in education.

We do not believe that a 30 member body, or even a 20 member body, is conducive to qualitative review and decision making. Nor, despite the proposed legal description of his duties, do we envision the Joint Chairman as ever being a singular spokesman for all of education. We have a particular concern about any administrative body having the type of budgetary power proposed for the Joint Board. These types of ultimate budget decisions are constitutionally reserved to the Governor and the General Assembly, and ought not to be statutorily delegated to an appointed Board.

Having said all of this, we do believe that there is a need for some mechanism to coordinate policy between the two branches of education. There are important matters, such as teacher certification requirements and teacher training curricula, that transcend the bounds of either branch individually. Those charged with administering the public school system ought to have input into teacher training, and the teacher training and educational research institu-

tions ought to be made more aware of what is happening in our schools.

We simply believe that an extensive bureaucracy is not necessary to achieve this result. Instead, we propose that an Education Coordinating Committee be established, consisting of three members from each of the two boards and the two Commissioners. All staff assistance to the Committee can and should be furnished by the Department of Elementary and Secondary Education and the staff to the State Board for Higher Education. No additional or independent bureaucracy is needed.

This Committee can consider, and make recommendations to the two Boards with respect to, matters of educational policy or administration which affect both branches. It would, in effect, be a type of joint committee of the two Boards.

The two Boards and the Committee would, of course, be free to establish whatever advisory groups they feel desirable from time to time.

V. CONCLUSION

It was not the function of the Task Force to "start from scratch" and re-do all that the Study Commission did, but rather, as noted in the Introduction to this Report, to evaluate the proposals of the Study Commission in the light of our assessment and the public reaction to them, and to make our own recommendations.

The enormity of just this limited task has made us even more aware of the importance of the work done by the Study Commission. No aspect or function of State and local government is more significant or sensitive than public education, and none produces more varying points of view.

We commend the Study Commission for the valuable contribution it has made. Its recommendations, including those which we do not endorse, have served as an important catalyst to shake some lethargy out of the educational "establishment" and to awaken a widespread public interest in how our educational system should be governed.

We have evaluated the Study Commission proposals to the best of our ability, and have attempted in this Report to present our honest analysis of them. In some areas, we have avoided becoming enmeshed in great detail, but dealt with general concepts, leaving it to the legislative and administrative processes to fill in some more of the flesh.

As stated in our transmittal letter to the Governor, we believe that the recommendations contained in this Report, if implemented, will produce a much more efficient and responsive system of education in Maryland.